

Chatham, Massachusetts  
Real Estate Transfer Regulation  
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Adopted: 1986

TOWN OF CHATHAM  
BOARD OF HEALTH  
REAL ESTATE TRANSFER REGULATION

Purpose

To determine and protect the public health from potential and present sources of pollution to ground water or salt water from existing sewage disposal systems, the Board of Health requires that the Owner(s) of a developed property in Chatham, Massachusetts order an open inspection of the existing septic system(s) prior to the time of transfer of the property.

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Section I DEFINITIONS

1.1 Developed property- A parcel of land with a man-made structure erected upon it which has affixed to it an in-ground sewage system(s).

1.2 Open Inspection- All components of the septic system(s) attached to the existing structure(s) will be uncovered and a visual inspection conducted.

1.3 Transfer of Property An act by which the title of a property is conveyed from one person to another.

1.4 Marginal System A marginal system is defined as having one or several of the following problems: the system could not be judged because of an extended period of non-use; there are problems with the individual components of the system or with the system location; records show excessive pumping (more than two (2) times within any 90-day period for Residential or Commercial property, except for required grease trap maintenance for commercial property); presence of visible Ferric Sulfide stains; the system is inadequate for intended use; system is

located within 100' of a domestic water supply well, wetland or watercourse; or any other problem as defined by the Board of Health or its Agent.

1.5 Failed System A failed system is defined as one in which there is evidence of sewage flow to the surface; evidence of overload of the system; the system is in such a state of disrepair that it cannot function as originally intended; lack of a four (4) foot protective zone between the bottom of the system and ground water; or any other problem as defined by the Board of Health or its Agent.

## Section II- GENERAL REQUIREMENTS, EXCEPTIONS, AND STANDARDS

2.1 The open inspection of existing commercial and residential sewage disposal systems shall be the responsibility of the Owner of the property prior to Real Estate Transfer.

2.2 Property connected to the Town of Chatham sewage system is exempt from this regulation.

2.3 Property served by a sewage treatment plant located on the property to be served is exempt from this regulation.

2.4 This regulation shall not be effective at the conveyance or devise of the property to the Surviving Spouse or, in the case of joint ownership, the property is conveyed to one of the original owners. (See Sec. 3.4, 3.5 and 3.6).

2.5 For the purposes of this regulation, reference is made to the standards and provisions of Title V of the State Sanitary Code, and to the existing regulations of the Chatham Board of Health Regulations for the Sub-surface Disposal of Sanitary Sewage.

## Section III- INSPECTION PROCEDURES

3.1 All inspections must be done by a Registered Professional Engineer or Sanitarian. The Engineer or Sanitarian upon completing the inspection shall file a completed Certificate of Compliance and Inspection Form with the Board of Health with copies to the Seller, Buyer and Assessor's Office of the Town of Chatham stating whether the system(s) is in GOOD, MARGINAL or FAILED condition

3.2 The Certificate of Compliance and Inspection Form is considered to be a part of this Regulation and is incorporated by reference.

3.3 The Inspection shall take place no more than one hundred and eighty (180) days nor less than thirty (30) days prior to the transfer of property. The Board of Health must receive the Certificate of Compliance and Inspection Form within seven (7) days of the inspection. Copies must also be forwarded to the Owner, Buyer and Assessor's Office at that time.

3.4 Any new Title V system having been installed and having received final inspection

approval by the Board of Health or its Agent within the prior five (5) years shall be exempt from this Regulation, providing additional living space has not been added and/or there has been no change in intended use. A copy of the Disposal Works Permit and/or other evidence, approved by the Board of Health or its' Agent, must be submitted in lieu of the Certificate of Compliance and Inspection thirty (30) days prior to each Real Estate Transfer.

3.5 Real Estate transfers otherwise subject to this Regulation which take place within two (2) years of an inspection under this regulation and found to be in good working order, may be exempt from this regulation upon review and approval by the Board of Health or its Agent. A copy of the original Certificate of Compliance and Inspection form must be submitted to the Board of Health or its' Agent for review thirty (30) days prior to Real Estate Transfer. Systems that were found to be in a failed or marginal condition are required to be reinspected prior to Real Estate Transfer.

3.6 Sellers and Buyers who transfer an existing structure with the intent to demolish and replace the existing septic system with a Title V system may apply to the Board of Health or its' Agent for exemption from this regulation. The Seller and the Buyer must apply together in writing showing that both parties have agreed to the arrangement and accept joint responsibility for seeing that the new system is installed. An engineer hired by the party(s) must provide in writing that he/she has been contracted to do the plan and that a preliminary survey of the lot in question shows that a septic system in compliance with Title V and Town of Chatham Regulations can be installed on the lot. A proposed time frame for demolition and installation must be submitted at the time of application.

3.7 Establishing groundwater levels: Unless exempted from this requirement by the Board of Health or its Agent, septic systems or components of systems that are located below elevation 15' (using U.S.G.S. Mean Sea Level datum) or within 100 feet of a wetland are required to have a test boring or deep observation hole dug in order to establish the groundwater level. When depth to groundwater has been measured it should be adjusted to reflect the adjusted depth using the procedures outlined in Estimating Highest Groundwater Levels for Construction and Land Use Planning-A Cape Cod, Massachusetts Example, Michael H. Frimpter and Martha N. Fisher. USGS Water Resources Investigations 83-412.

#### Section IV - REPORTS, FINDINGS, AND REMEDIES

4.1 If the Inspection finds the system to be in FAILED condition, the Board of Health shall determine after receiving the Certificate of Compliance and Inspection Form, whether or not the system constitutes a danger to the Public Health and should be repaired or replaced. The Board of Health, or its Agent, must notify the Owner by Certified Mail whether or not the system must be repaired or replaced.

4.2 If the Board of Health or its Agent determines that the system constitutes a danger to the Public Health, the Board shall order the Owner to make repairs and/or replace the system according to the regulations as set forth in Title V of the State Sanitary Code and the Town of Chatham Minimum Requirements for the Disposal of Sanitary Sewage. If the work is not

completed within the time designated by the Board of Health, the Board may impose fines and/or repair or replace the system at the expense of the Owner.

4.3 if the Inspection finds evidence of sewage on the surface or draining into any waterways or wetlands, the Board of Health or its Agent is to be notified by the Engineer or Sanitarian within 24 hours.

4.4 if the Inspection finds the system to be in MARGINAL condition, the Board of Health will decide, after receiving the Certificate of Compliance and Inspection, whether or not the system constitutes a danger to the Public Health and should be repaired or replaced. The Board of Health, or its Agent, shall notify the Owner by Certified Mail whether or not the system must be repaired or replaced.

4.5 The amount of allowable time for the repair or replacement will be determined by the Board of Health or its Agent and will be contained in the letter of notification to the Owner. A copy of the Notification will be filed at the Town Assessor's Office.

4.6 If repair/replacement is required, upon completion of that work, the Health Agent must inspect and signify, in written form, that satisfactory repairs have been made.

## Section V SEVERABILITY

5.1 Each part of this regulation shall be construed as separate to the end that if any paragraph, sentence, clause or phrase thereof shall be held invalid for any reason, the remainder of that regulation and all other regulations shall continue in full force.

## Section VI ENFORCEMENT

6.1 The Board of Health or its' duly appointed Health Agent are authorized to issue Notices of Violations, Cease and Desist Orders, and other enforcement orders to compel compliance with the terms of this Regulation, as it or they deem necessary and appropriate.

6.2 In addition to any other remedy, the Board of Health and/or its' Agents may take any enforcement action deemed appropriate including but not limited to Criminal Prosecution, including fine as set forth in MGLA Chapter 111, Sec. 31, or Civil Action in the Courts of the Commonwealth for injunctive relief and/or money damages, or both Criminal and Civil enforcement.